

Minutes of a Regular Board Meeting held by the Town Board of the Town of Riverhead held in the Town Hall, Riverhead, New York on Tuesday, July 18, 1989 at 7:30 p.m.

Present: Joseph F. Janoski, Supervisor
John Lombardi, Councilman
Louis Boschetti, Councilman
Robert Pike, Councilman

Also Present: Patricia Moore, Town Attorney
Irene J. Pendzick, Town Clerk

Absent: Denise Civiletti, Councilwoman

Supervisor Janoski called the meeting to order at 7:30 p.m. and the Pledge of Allegiance was recited.

Supervisor Janoski, "We have Minutes of the July 5 meeting to approve but since Councilman Pike and Boschetti were absent at that meeting, they will be abstaining from the vote. Therefore, having only Councilman Lombardi and myself to vote on their approval, we will approve them at the next regularly scheduled meeting. Reports Mrs. Pendzick."

REPORTS

Building Department-Monthly report for June 1989. Filed

Supervisor Janoski, "Thank you. Applications."

APPLICATIONS & PETITIONS

Special Permit-Richard and Ana Jankus to rent a house in Business "C" zone, 906 East Main Street. Filed

Change of Zone-Robert Tooker from Residence "C" to Business "D", East Main Street. Filed

Petition-23 Residents requesting problem of loose wild dogs in area of Calverton be resolved. Filed

Supervisor Janoski, "Correspondence."

CORRESPONDENCE

Pine Barrens Commission-advising that "Coastal Zone Management", Section 52-10/Permit Fees, and Section 103-13.1/Land-filling Newspapers are matters for local determination. Filed

Stanley Allen, 7/10/89-Requesting that Highway Department fix Park Road. He feels private roads get more service than town roads. Filed

S.C. Dept. of Planning, 7/6/89-Recommend denial of Richard Visone application for change of zone. Filed

Robert Seng, 7/10/89-Requests six-month leave of absence as site plan reviewer. Filed

Southold Town, 7/6/89-Notice of Adoption of Local Law #3 of 1989. Filed

Southampton Town, 6/28/89-Notice of Public Hearing re: Chapter 69 and Chapter 48. Filed

13 Petitioners-Letter requesting support for current administration of Vail Leavitt Theatre. Filed

Supervisor Janoski, "The time for the first scheduled public hearing has not yet arrived. Let me just point out that there is a list of Unfinished Business and its status is reported on the agenda as to where it is in the process. I will open the meeting now to comments on any subject, anything that might be of interest or something on the agenda this evening that you may have a comment on. Bill. And while Bill is moving to the microphone, I would do well to point out that the scheduled public hearing which is the last one scheduled for this evening on Coastal Zone Management, will not be held this evening because we have received new regulations from the State of New York and it will take us some time to rework what has been done in conformity with the new regulations. I have suggested to George Bartunek who is the president of the C.A.C., that it might present the opportunity for a public information meeting to be held so that people can come down and look at the maps and look at the maps in relation to their property. See how it's effected. And then from a standpoint of knowledge of what is being proposed, then comment with that information at the public hearing which will be rescheduled I would think late in August the way it looks now. Bill."

Bill Roberts, Baiting Hollow, "Four subjects I want to touch on briefly. Has any thought been given to installing a FAX in the Town Hall?"

Supervisor Janoski, "We have one."

Bill Roberts, "You do have one. I was in Buffalo two weeks ago and I called up to ask if there was a FAX machine in Town Hall and I was told no."

Supervisor Janoski, "How long ago?"

Bill Roberts, "Two weeks ago."

Supervisor Janoski, "I think we had one two weeks ago. The Police Department also has one. There's is a little better because they transmit fingerprints and photographs."

Bill Roberts, "I can get the number from Irene then?"

Irene Pendzick, "I didn't know we had one."

Bill Roberts, "I can get the number from somebody then. Thank you. Item number two, the Town Board adopted on July 5th a new Chapter 106 entitled Waterways, very interesting, very complete but it does not cover a type of activity which is becoming more and more a problem and that is jet skis. Jet skis..."

Councilman Lombardi, "It's in there Bill. That would be under the boats."

Councilman Boschetti, "The way the definition is structured Bill, it would encompass jet skis."

Bill Roberts, "Really? There's no mention made of the term jet skis."

Councilman Pike, "It's not necessary. They're considered boats."

Bill Roberts, "The third suggestion I have is should there ever be a postponement of a public hearing and this one of course, came up last minute, and people may come down in anticipation of the hearing or contributing comments. May I suggest that if there is a postponement that's known ahead of time before the people come in, a notice be put up in the hallway. So that people who came specifically for that public hearing will not sit around and be disappointed when they find a last minute...."

Supervisor Janoski, "That's why I announced it early."

Bill Roberts, "Ok. There have been other times that it has been announced that something is going to be republished and reposted that it might be helpful to post it. The fourth item and that is Riverhead War Games, they're going to get their permit based upon their court action. During the discussions, there was suggestion made by some of the members that the permit be issued for a limited period of time; one or two years. And then based on their performance, it then may be extended for a longer period of time. Is that going to be part of this approval or not?"

Supervisor Janoski, "Yes."

Bill Roberts, "Ok. And the \$5,000 carrot that they dangled, I thought it was more like a bribe of you help us and we'll help you."

Supervisor Janoski, "It's no longer a bribe or a carrot."

Councilman Lombardi, "The bribe didn't come through."

Supervisor Janoski, "And their reasoning was that it was something that was offered during negotiations for the special permit. After the Board denied the special permit and they had to go to court, they felt that they had spent a great deal of money with the court action, the attorneys and everything else, and that was not considered to be a reasonable part of the special permit which was ordered by the courts. So it was no longer offered. Is there anyone else who wishes to address the Board? Steve."

Steve Haizlip, Calverton, "Since we have three, one is missing tonight, so we have two attorneys. One is a Town Attorney and the other is a Board attorney. They count as two as far as I'm concerned. Now Bob, Mr. Roberts brought up about this here war games. Now, I don't understand sometimes all the fancy words that is issued out in the courts and so forth. I would just like to try to get a definition or the ruling on arbitrary and capricious. Now what does all that mean?"

Supervisor Janoski, "What it means in this particular case that in the use of land in the town, there are a number of special permitted uses in the zones. And you have to make an application for that use and make your case as to why it should be granted. And the Town Board hears the testimony at a public forum such as this. Perhaps written input and very often it involves the input of other agencies of government. We take all that information and make a decision. In the particular case of the war games as you call them, one of the things that is not generally understood is that you can not deny a special permit without having valid reasons for the denial. In the judgement of the court which heard this case, the Town Board did not have valid reasons for the denial of this special permit. And therefore, directed that the Town Board issue the special permit with reasonable requests as far as what was provided as far as the regulations. Reasonable conditions."

Steve Haizlip, "So in other words, the judges ruling was all the information that was given and put in the paper as to the reason why, wasn't good enough. It was only a quick summation."

Supervisor Janoski, "You were here at the hearings, I'm sure, both of them. Quite honestly, some of the testimony was based on emotion. It was an emotional point of view. Not something that was factual as far as the court was concerned. For

example, what we heard and a tragic occurrence in the town was the sniper and young man being killed and that was part of the testimony. Well that really could not be considered as part of the reasons this permit would be accepted or denied. But the judge made his ruling and they will have their two year special permit issued this evening as a matter of fact, with I believe 13 or 14 conditions of operation. And they feel strong enough that they are going to do such a good job, that they're not worried about the two year restriction."

Steve Haizlip, "Thank you Joe."

Supervisor Janoski, "There's one minute left. I can't start it ahead of time. But if anybody would wish to.... Yes Bill."

Bill Nohejl, Aquebogue, "One minute isn't enough. Will I have time later."

Supervisor Janoski, "Sure. You can have more than a minute now. I can't start a public hearing before the scheduled time but I can start it after the scheduled time. Well, we filled up the minute very nicely Bill. Go right ahead."

Bill Nohejl, Aquebogue, "I read in the paper that the Fox Hill wishes to put 60 condominiums on the corner of Oakleigh and Sound Avenue. And my estimation, correct me if I'm wrong, I believe that development rights from that area that they wish to put these 60 condominiums was transferred to the bluffs. And I don't feel as though they have a right to come and ask for that on that spot. And if it's ever done, I think it's going to be a very bad thing. I have another circumstance. I spoke to the Building Inspector, the Ordinance Inspector and Mrs. Moore about a certain project going on in Calverton back at the bird farm. I was told by the inspector that he spoke to Mrs. Moore and everything is legal. I spoke to Mrs. Moore at the last public hearing and she said everything is legal. Now, soil is pushed up to one side. Soil is pushed up to the other side and big tractor trailers are taking sand out of there one right after the other every day. And I'm under the impression that if some kind of permission is granted, that no soil leave this area until it's finally graded to its proper grade for whatever they want to build. If you want to build a racetrack, you want to build something else, that no commodity be taken from that property until the finished product is done. Now, this as I say, is pushed up on both sides and sand is being taken out of there every day. I checked with Mrs. Moore and I asked for a site plan. She said there is no formal site plan. Am I right Mrs. Moore?"

Patricia Moore, "Yes."

Bill Nohejl, "Why is there not a formal site plan?"

Patricia Moore, "This is an agricultural business. A site plan is not required."

Bill Nohejl, "In other words, I could buy a piece of property with an elevation of ten feet or so, mine it out, bring it down to the level that I wish for farming purposes and be legal. I don't know if you heard what I said. If that was possible agricultural. I could buy a farm saying I want to make it level for irrigation like they do out in California. Level it off, mine out all the sand that I want and bring it down to the level that I described and still be legal. I don't believe this is true. I don't believe this is the way it should be. And I ask that this be looked into very carefully. Because as I say, tractor trailers are going out of there one right after the other at all hours of the day. Also, there is in the back, a number of trailers housing the help. The farmers need a special permit for a migrant camp. I don't believe they have one there."

Supervisor Janoski, "What kind of trailers? Mobile homes? That's a simple question Bill."

Bill Nohejl, "Why don't you take them out. They're back in there."

Supervisor Janoski, "Are you talking about mobile homes?"

Bill Nohejl, "Yes. Take them out. As I said, I spoke to the ordinance, I spoke to Ray Wiwczar and they said it's legal. I don't know how. I am wondering how."

Supervisor Janoski, "Are they on wheels."

Bill Nohejl, "I can't tell you. I don't know. If they're are on wheels or if they're not on wheels, what's the difference?"

Supervisor Janoski, "We'll look into it Bill."

Bill Nohejl, "Ok. Thank you."

Supervisor Janoski, "Thank you Bill. Let the record show that the hour of 7:49 p.m. has arrived. The Town Clerk will please read the notice of public hearing."

PUBLIC HEARING - 7:45 p.m.

I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall on Tuesday, July 18, 1989 at 7:45 p.m. to hear all interested persons who wish to be heard regarding: **Proposed Deletion of Section 47-19 from the Town Code.**

Supervisor Janoski, "This sounds like an interesting public hearing but it's not."

Patricia Moore, Town Attorney, "We recently adopted the Waterways code and in the Waterways code, this provision is already incorporated. And because of that, we now have to formally delete from another area of the code where it was previously listed. So it's as simple as that."

Supervisor Janoski, "And the derelict is referred to is a boat."

Patricia Moore, "It is a boat that is left unattended."

Supervisor Janoski, "Is there anyone wishing to address the Town Board on the matter of this change to section 47-19 regarding derelict boats? That being the case and without objection, I declare the hearing to be closed. Is there anyone present wishing to address the Town Board on any subject? Mr. George Schmelzer."

7:45 PUBLIC HEARING CLOSED AT 7:51

George Schmelzer, Calverton, "I've got the same question. What are you going to do about the river with the D.E.C.? It's been four months now since you had that screwball compromise of the boundary line which is no good for anybody."

Supervisor Janoski, "Well, as you may know...."

George Schmelzer, "I don't know."

Supervisor Janoski, "Well, because you and I talk about this all the time and I tell you the same thing all the time. The Town Board engaged the assistance of a consulting firm to deal with D.E.C. At the same time, the Town Board identified and engaged a legal firm. It is the growing intention of the Town Board that perhaps this week or probably the following week, the Town Board initiate legal action against the State of New York."

George Schmelzer, "You haven't decided upon it yet?"

Supervisor Janoski, "What I'm saying to you is the majority membership of the Board is in agreement that this action should be initiated. I think we have to develop the format, the rea-

sons for such a legal action. What it will be based on so that we have some hope of being successful in the courts. But it is the will of the Town Board now having waited a reasonable time and having had no response from the State and nothing really in the way of assistance from others in the State government that we now initiate the legal action."

George Schmelzer, "Did you expect any response?"

Supervisor Janoski, "I had hoped."

George Schmelzer, "Well you didn't expect any and I didn't either. You've got to use a hammer and club. That loused up compromise for a boundary line you made may have hurt your chances in court Joe."

Supervisor Janoski, "I think that one of the avenues.... Well, I can't tell you what I think the avenues of litigation are going to be but I think there is a basis for us to be successful."

George Schmelzer, "I hope you're right but I have my doubts. I think the only way to cure it would be to make it a half a mile wide up to the Bay and then you'd start some action to create some action."

Supervisor Janoski, "That was the original proposal."

George Schmelzer, "That would blow things up so much they would do something."

Supervisor Janoski, "George, you somehow seem to portray when you're at that microphone, that the Town Board is somewhat supportive of what the State has done. The Town Board has never supported what the State has done. We have opposed it. We have opposed it by resolution. We have opposed it by trips to Albany and I don't know what else we can do in making our feelings known with regard to what happened. But the State does what it wants to do irregardless of what the government of the town recommends. And now is the time for us to take action."

George Schmelzer, "Well, I remember when they had those hearings, there were three town committees and they put nothing into it. The Town Board put no input into it all. And you ask Mr. LaValle's assistant and he says the same thing."

Supervisor Janoski, "Mr. LaValle has to justify his action with regard to the Wild, Scenic and Recreational Rivers Act. As a matter of fact, members of the Town Board sat on that commission. So I don't say how he can make that statement."

George Schmelzer, "Well, I sat right down there and there was no input at all about what they should shouldn't do."

Supervisor Janoski, "What are you talking about?"

George Schmelzer, "I sat right there. I was sitting there."

Supervisor Janoski, "Are you talking about the work the town did prior to this state..."

George Schmelzer, "It was these committee hearings right here."

Supervisor Janoski, "I'm sorry, the D.E.C."

George Schmelzer, "The D.E.C. man sat in here and the committees from the town."

Supervisor Janoski, "Well George I wish I had a tape recorder going at my last visit to the D.E.C. What I said is not repeatable in this kind of a room but my feelings were very strongly expressed. The members of this Town Board have on occasion, John went to Albany with me in 1985 to express the opposition of this town government as to what was being proposed. The members of this Board have expressed themselves at public hearings in opposition to what was being proposed. Yes, we did come up with a compromised position to try to resolve it in an equitable way but that does not seem to be working either. So we're going to take legal action."

George Schmelzer, "Well, I hope it's not too late."

Supervisor Janoski, "Well, if it's too late, why do you keep asking us what we're going to do?"

George Schmelzer, "There's nothing being done for four months. You say you're going to do something. Why don't you just do it. Maybe they didn't get back from a world trip or something. I don't know. I only went to Albany once on behalf of the town. I don't care much for Albany."

Supervisor Janoski, "We should have sent you up the first time."

George Schmelzer, "Maybe you should have. If you're ever concerned about topsoil, don't forget that most of the topsoil was destroyed in town by sod farming. Every time they harvest the sod, a half an inch goes off at least. And the I.R.S. recognizes that. I have a paper home that after 16 crops of sod, the topsoil was gone. So the farmland can take a depletion allowance. So if you hear any noise about topsoil. Of course, who has a farm rented out for sod farming will deny it and say his soil builds up. Thank you."

Supervisor Janoski, "Thank you George. George, have you visited the offices of.... I understand that he has no offices

down in Centereach or Selden. Have you visited my friend Ken LaValle at all? Senator LaValle."

George Schmelzer, "No."

Supervisor Janoski, "Well, please. Do you want me to set you up an appointment? Now on this subject we're not. Irene just said I thought he was your friend. And I said not on this subject we are not. The issue of the river. It was Senator LaValle who passed the legislation and you have not visited him?"

George Schmelzer, "I call him up and he's not in. I have to speak to his assistant."

Supervisor Janoski, "Well go down and sit on his door step and perhaps you'll be a little effective there. I will set you up an appointment. I will do that."

George Schmelzer, "He lives in Belle Terre."

Supervisor Janoski, "No. He doesn't live in Belle Terre. His offices, he's moved it. I understand he has new offices and I'm sure you'd like to see them."

George Schmelzer, "Well, the best way would be to buy a house next to him and when you have a house evacuated from welfare, you can move them in next to him."

Supervisor Janoski, "Thank you George. Let the record show that the hour of 7:59 p.m. has arrived. The Town Clerk will please read the notice of public hearing."

PUBLIC HEARING - 7:55 p.m.

I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall on Tuesday, July 18, 1989 at 7:55 p.m. to hear all interested person who wish to be heard regarding: Proposed Amendment to Section 101-9 of the Town Code.

Patricia Moore, "This pertains to the installation and maintenance of traffic control signals. We are adding traffic control signals to Route 58 and Mill Road, Wildwood Road and the entrance to Wading River Fire Department, Osborn Avenue and Harrison Avenue, Pulaski Street and Hamilton Avenue and Griffing Avenue and Lincoln Street."

Supervisor Janoski, "Thank you. Is there anyone present who wishes to comment on the installation of these traffic control devices at the locations mentioned? That being the case and without objection, I declare the hearing to be closed."

7:55 PUBLIC HEARING CLOSED AT 8:01

Supervisor Janoski, "Let me answer a question that I am very often asked concerning the installation of new signals is in town. Part of what is being installed is "No Turn on Red" signs. And the questions is always asked; why can't we have the turn on red availability. That is because "Don't Walk" signs are being installed also. And you can not have the turn on red when you are telling someone to cross the street at the same time. And that's why you can not turn on red at those locations. And that's also true down on Main Street. A lot of people always ask that question too. Why can't you, off Peconic Avenue, make the turn on red or onto Peconic Avenue? Because there are "Walk/Don't Walk" signs there. When people are being told to cross the street, you can't have that traffic making that turn. Betty Brown."

Betty Brown, "Representing the North Fork Environmental Council. I just had a question on one of the resolutions this evening. Number 513 engages the firm of Malcolm Pirnie regarding the petition of William Hubbard for the extension to the Riverhead Sewer District. Could you clarify that for me please? Why are we engaging them and is the town paying for that?"

Supervisor Janoski, "No. You don't have the resolution do you? In the resolution it's quite clear that they're being engaged to go through the process of the permit for sewage hookup and the appurtenances for whatever is necessary at their own cost which I recall as being around \$17,000. So therefore, be it resolved, that Malcolm Pirnie be engaged to perform those services as outlined in their cost analysis dated July 14, 1989 in an amount not to exceed \$17,000; payment for which petitioner will be responsible. And there's some reference to it. Whereas the petitioner has agreed to pay all expenses as specified in the proposal of Malcolm Pirnie. So they're paying for it and that's what they're being engaged to do. They are the consultants to the Sewer District and generally it is our requirement that whoever the consultant is be engaged because we want it done our way."

Betty Brown, "Thank you."

Supervisor Janoski, "Let the record show that the hour of 8:05 p.m. has arrived. The Town Clerk will please read the notice of public hearing."

PUBLIC HEARING - 8:05 p.m.

I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall on Tuesday, July 18, 1989 at 8:05 p.m. to hear all interested persons wishing to be heard regarding: **Proposed Amendment to Section 101-10 of the Town Code.**

Patricia Moore, "101-10 prohibits parking where it is designated. And we are designating on Osborn Avenue, east between West Main Street and Railroad Avenue. Osborn Avenue west from its intersection with Hamilton Avenue southerly for a distance of 425 feet. Again on Osborn Avenue east to its intersection with Harrison Avenue northerly a distance of 115 feet. Osborn Avenue east with its intersection of Pulaski Street and northerly for a distance of 125 feet. On Pulaski Street both sides from its intersection with Osborn Avenue easterly for a distance of 150 feet. On Pulaski Street again north from its intersection with North Griffing Avenue easterly for a distance of 200 feet. Griffing Avenue east from its intersection with Pulaski Street southerly for a distance of 125 feet. Hamilton Avenue west from its intersection with Pulaski Street northerly to property of the Riverhead Fire District. North Griffing Avenue east from its intersection with Pulaski Street northerly for a distance of 130 feet. And finally East Main Street south beginning at the intersection of the northerly line of lands of the Long Island Railroad easterly for a distance of 425 feet."

Supervisor Janoski, "Ok. Is there anyone present wishing to address the Town Board on the matter of these parking prohibited locations. Yes, Dick Benedict."

Dick Benedict, Fanning Boulevard, "I just wonder if these signs shouldn't read "No Parking or No Standing"."

Supervisor Janoski, "Well, what is being talked about here I believe is no parking."

Dick Benedict, "But these are some intersections in town that are pretty crowded. Why would you want anybody standing in the same intersection? I mean, if we're going to build a sign, we're going to change them later. The guy sitting there idling his motor, you can't see anyway. Why wouldn't the signs read "No Parking or Standing" at any time? The sign wouldn't cost that much more and it would be done and over and it would give the police a little more teeth."

Supervisor Janoski, "It's not a question of cost for the sign. It's what has been recommended. But that's the purpose of this hearing is to illicit from..."

Dick Benedict, "Well we changed all of them in all the downtown parking districts at one time. We took down almost new signs and put up more new signs."

Supervisor Janoski, "Well, I've seen some "No Parking" signs put back in place too."

Dick Benedict, "Yes and we've put "No Parking, No Standing"."

Supervisor Janoski, "I think it's no standing or stopping."

Councilman Lombardi, "It's no parking, no standing, no stopping."

Supervisor Janoski, "Well, I don't which one of you... I think it was a tie Steve. You want George to go first?"

Steve Haizlip, Calverton, "The Town Attorney has read out all these different intersections and streets and distances, how far back and so forth. But I don't believe I heard an explanation as to why all this space is needed and all these parking areas not valid. Can I get an explanation on that please?"

Supervisor Janoski, "I believe that in most cases the areas already exist as designated "No Parking". Is that correct Chief? Yes. And it is necessary that we have the code conform to those designated no parking areas. So the purpose of this hearing is to legalize those areas which are designated as "No Parking". If we don't put them in the code, we can't enforce it."

Steve Haizlip, "Ok. Thank you. I get you now."

Supervisor Janoski, "Mr. Schmelzer."

George Schmelzer, Calverton, "I know there is a bad spot heading south on Harrison Avenue when you come to Osborn Avenue. There's a split of land there that you have to have a neck like a goose to see around if anybody is heading south on Osborn Avenue. So I'd like the town, if it owns that little spurt of land like an arrowhead, to cut the bushes down to the ground. And if it doesn't own it, maybe they'll buy it about 40 or 50 feet from the green house, the first house up there. The land is not being used anyway. It would make it much safer if somebody comes down Harrison and they could see if anybody is approaching on Osborn Avenue."

Supervisor Janoski, "I'm trying to recall where the stop sign is, whether it's on Osborn or Harrison. But in any event, the stop line is way beyond the stop sign."

George Schmelzer, "Yes but you can't see it."

Supervisor Janoski, "That's why the stop line is there. So that if you pull up to that stop line you can see."

George Schmelzer, "It might help.... People turn their necks and get stiff necks turning their head around to see if a car is coming. So maybe it would be a good place for a chiropractor to open an office there after people make that turn. Thank you."

Supervisor Janoski, "Thank you George. Is there any other comment on the "No Parking" designation of the locations mentioned which already exist? Therefore, without objection, I declare the hearing to be closed. Is there any comment on anything at all, anything that's on the agenda? Ok. Then let us take up a few of the resolutions."

8:05 PUBLIC HEARING CLOSED AT 8:11

Resolutions #509-#539 found on pages 850-889 of the
1989 Resolution Book.

Supervisor Janoski, "Let the record show that the hour of 8:15 p.m. has arrived. The Town Clerk will please read the notice of public hearing."

PUBLIC HEARING - 8:15 p.m.

I have affidavits of publishing and posting for a public hearing to be held at Riverhead Town Hall on Tuesday, July 18, 1989 at 8:15 p.m. to hear all interested persons wishing to be heard regarding: **Proposed Amendment to Section 101-11 of the Town Code.**

Patricia Moore, "We are prohibiting parking during the school hours on Pulaski Street north from 7:30 a.m. to 3:30 p.m. from its intersection with North Griffing Avenue westerly to a point 150 feet easterly of Osborn Avenue."

Supervisor Janoski, "Which would be the area in front of the Pulaski Street School. Is there any comment on that addition to the code? That being the case and without objection, declare the hearing to be closed. Let us continue with the resolutions."

8:15 PUBLIC HEARING CLOSED AT 8:16

Resolutions #540-#549 found on pages of the
1989 Resolution Book.

Supervisor Janoski, "Since it is not a public hearing and since it is not 8:25, we have scheduled this evening a public hearing for a local law entitled Coastal Zone Management. Because of the receipt by the town of new regulations from the State of New York, we are going to be amending what has been proposed so that it conforms with the new regulations. Therefore, we will be required to hold another public hearing. Anyone who wishes to, can certainly make comment this evening concerning the proposals but they are not the proposals as they will be there amended. I have suggested to Mr. Bartunek who I believe I just saw a moment ago, that the town C.A.C. chairman hold an informational meeting so that residents would have the opportunity to come down; examine the maps; see how their property is effect; take a look at the regulations; ask

questions. And I think it would make for a more informed public hearing so that people would not be guessing as to what they are testifying on but would know and be able to develop their feelings either pro or con or whatever the feelings might be through such a sequence of events. Have an informational meeting, find out what's being proposed, how it's being proposed and then that would be followed by, in a week or two weeks, a public hearing which would be your opportunity to speak to the issue whether you would be for it or against it or whatever your feelings might be. Mr. Bartunek would you like to add anything?"

George Bartunek, C.A.C., "No. I will be here if anybody wants to make any testimony tonight. We will answer questions again. I think the idea of having an informational meeting sometime very soon would probably be the best way to handle it."

Supervisor Janoski, "You know I would request that the Town Board, before we adjourn, that perhaps a resolution authorizing me to put a display ad for an informational meeting. I would rather use a display ad rather than a public notice type of format which we could set up as far as the time in the future. But if I could be authorize tonight, I would appreciate it."

(Resolution Moved and Seconded by Councilman Boschetti and Councilman Lombardi).

Supervisor Janoski, "Is there anyone present who wishes to address the Town Board with regard to the Coastal Zone Management proposals which we'll be changing? Yes. Let me just say that the town government has been working on this for the past 2 years I believe. It has gone through many amendments, changes as it has been developed. And we do so because there is a sequence of events if the town does not act and adopt its own regulations. Then the county has the ability to do so. If they do not act, then the State of New York can step in and oppose their regulations. So we have moving towards this for the past two years as most of our has been to keep the county and the state out of here."

Bill Talmage, Riverhead, "I had a statement here that I'd like to read which is based on the old proposal of about 3 o'clock this afternoon when I heard this was back on again. So we put something together to come down here. One request that I would like to make is that if you're going to run an ad to tell people about the informational meeting, is there anyone possible we can get maps available for distribution? Many of the property owners along the Sound don't live in Riverhead. Just having one map that they can come see how their effected, maybe mail out to the owners."

Supervisor Janoski, "I had asked that question of Rick Hanley in the Planning Department. He did indicate to me that something might be possible with regard to distribution of maps. That is foremost in the Town Board's mind in wanting an

informational meeting so people could come down in more of an informal arena, look at the maps, ask questions about their property specifically, see how it's effected, where the lines are."

Bill Talmage, "All right. Well, my concern is as I read the thing now, I am representing my family which through six generations and 107 years of farming and paying taxes on Riverhead Sound front property. In addition to farming, I work in real estate sales specializing in industrial/commercial and waterfront property. I've been flying up and down the Sound Coast for 15 years. Except for my father, I believe I have more hours looking down at the shoreline from the air than anyone. I served on the Riverhead Farm Preservation Program Task Force to develop a transfer of development rights program. The combination of these experiences allows me to look at this proposal with some experience and I have some major problems with it. The first is redundancy. There already exists a D.E.C. Coastal Zone Management Plan which has a line in front of that bill. This line itself is very arbitrary. And it seems to me that it's placed very far off the bluff in areas with little erosion and nearer in some areas which are prone to erosion. This plan adds an arbitrary and uniform 100 feet to the above line regardless of the erosion taking place in a given area. The provision to take out 20% slopes, bluffs and ravines, is even more arbitrary. In one place where there has been no erosion and in fact, the beaches steadily widen, the new line extends inland over 1,100 feet. Yet in Reeves Park where there is bad erosion which a lot of it is caused by Riverhead Town, the line is at a reasonable distance from the edge of the bluff. Protecting land over 1,000 feet inland certainly is not coastal. Why single out 20 degree inland slopes here and not include them all over town? If erosion is the problem, why doesn't Riverhead enforce its laws against atvs? Over the years I've seen the problem that these vehicles have caused tearing up vegetation and starting terrible erosion. We have a Building Department to check the engineering of buildings to be built on slopes and to ensure that they will not cause erosion or fall down. Projects must still comply with SEQRA as well. Again redundancy. If Riverhead institutes its own Coastal Zone Management, there is no guarantee that the D.E.C. will cancel their regulations. More likely as in the case of the wetland regulations, we will just create another level of determining bureaucracy. Twenty degree slopes are very small slopes. In many cases, they represent the most desirable building locations along the Sound. A handicap entrance ramp is 4.5 degrees slope. A few months ago there was a proposal to remove up to 20 degree slopes from the yield calculations. You could build on them but you couldn't count them in yield. This one says you can count them but you can't build on them. It seems that somebody has something against people owning 20 degree slopes and they want to do something to them and they don't care what. This proposal said it doesn't prevent you from building. It only requires you to get a special permit. Yet there are no published standards for issuing such a permit. There is nothing

I can see that would prevent future boards from using a new line as a new setback line. The potential abuse of this law by obstructionists who want to use it to control densities is huge. I do not doubt that there will soon be those who say that since you can't build on it, you might as well remove it from the yield calculations. These new lines are poorly researched in my opinion. They do not take into account the history of the property as relative to erosion or to the soil types. The lines seem to be drawn just to follow the topographical maps with a few exceptions. This proposal will increase taxes to the Riverhead taxpayer. This is valuable and vacant land. It pays a lot of taxes and requires no services. If the prime waterview building sites on these properties were denied by this plan, the owner should be allowed to get a lower assessment. These taxes would have to be transferred to homeowners. The transfer of development rights program has the potential to decrease homeowners taxes by shifting "negative tax base" development areas of "positive tax base" development. The Suffolk County Health Department has hindered uses of TDR's for industrial use because of the aquifer recharge area. The D.E.C. has limited the downtown hamlet redevelopment zone with its Wild, Scenic and Recreational Rivers Act. The only near term receiving area we have left for TDR's is north of Sound Avenue. If we make those sites less desirable, we are shooting ourselves in the foot. We will be encouraging on site development and "negative tax base" sending areas while losing positive tax development. The net result is the town's bills must be borne even more by the homeowner. There is also danger in the hypocrisy of this bill. On the other side of town along the Peconic, the D.E.C. has another line. It's called the Wild, Scenic and Recreational Rivers Zone. The D.E.C. also says this line does not prohibit development. It only requires you to get a permit. It seems no one including Riverhead Town, believes permits will be granted for anything worth while. Riverhead Town is fighting the D.E.C. tooth and nail because they say it robs the town of "bad needed positive tax base development". In our case on the North Shore, Riverhead is not only fighting the D.E.C. on their line but it proposes a new line which is much worse. I believe this could give the D.E.C. reason to keep their line along the Peconic assuring even higher taxes to Riverhead residents. The whole smacks to me of empire building by the departments of Riverhead Town government. The D.E.C. program under the local control would be okay if the D.E.C. would go away. But so much more regulation with so much potential for abuse is too high a price to pay for a maybe local control. If we must add a Riverhead Town strata of regulations to all the others in this area, they should be done with the input of landowners but for practical and historical reasons. Perhaps contributions can be made to Sound front owners to curb the atvs. This would make the biggest reduction in erosion. No one wants their land ruined by erosion. But I for one, am less afraid of erosion than I am of this law. Thank you."

Supervisor Janoski, "Thank you Bill. Yes sir."

Walter McQuade, Riverhead, "I'd like to also read into the record some analysis of the erosion regulation as proposed and I would hope that it would help in revising it. The proposed regulation as it reads calls for setting up a series of three zones along waterfront line the Sound. The zone closest the sea would be the erosion hazard area with in which no new building would be allowed. One hundred feet behind it would be the erosion buffer zone where special permits would be required before building or certain other activities could take place. That I understand and is fine. But what concerns me is a third zone known as the coastal management zone where a special permit would also be required. For the most part of this zone as shown on the Planning Department maps, it's been set at a more less uniformed distance from the sea. But in a few instances, it turns more inland. The result made possible by the wording of the regulation which I find ambiguous, states; "where appropriate, the coastal management zone has been extended landward to include seaward sloping ravines or depressions which have slopes of 20% or greater". The key word to me here is appropriate. I don't know how it's set. Let me give you one example of what a negative arbitrary power this writes in the proposed regulations. For many years I've been the owner of a stretch of Sound seafront that rather than suffering erosion, has actually been building out because of the build up of sands caused by ships sunk on the beach front. Neighboring beaches have also built out. For the past 50 years, the beaches have widened by close to 500 feet. In the worst storms, even high tide never comes close to the foot of the bluff. As a result, dunes are formed. A broad area of dune grass and other vegetation have sprung up and the face of the bluff is thickly wooded with trees and bushes. I have sent each of you a xerox photograph of this. I will provide it in color which is must better. The boundary of the coastal management zone within which no building can be erected without a special permit as on this particular piece of land that is set 1,100 feet back from the water, a distance of between a fifth and a quarter of a mile, and not far from the inland boundary of my property. Terms and words of the proposed regulations, is this appropriate? The land in question may be somewhat rough but it is inland. Moreover, it is part of a parcel that is undergoing a process of building out into Long Island Sound rather than receding from it. Ironically, a few miles down the coast in an area where erosion is a serious problem, the coastal management zone boundary is set only a short distance from the erosion buffer. The members of the Planning Department whom I've spoken to, predicts that permits for reasonable building in this area would never be (inaudible). I'm not criticizing their good intentions. But they regulation they have framed, the regulation is much too broad and open ended and invites abuse making it possible for some future administration to in effect, bar a broad belt of land from normal responsible development even though its location may be so far back from the beach that it can have little or no effect on water front erosion problems. A very valuable piece of land for the town will be sterilized. Such abuses would still be made easier by the fact

(and this is important) that the regulation fails to list standards according to which building permits should be granted or denied inside the coastal management zone. Given these circumstances, I believe the Town Board would almost certainly end up having to defend a number of its denials in court. The other thing that Bill commented on is the erosion caused by vehicles on the beach. I think there are two different kinds of traffic on the beach. One is people come in their four wheel drive vehicles and they fish. Nothing wrong with that of course. They always stay below the beach grass and the dunes but there is a real problem of cowboys who love to ride across and even right up the cliff. I would certainly hope that the town would enforce what regulations there are to keep that from happening. That is the present erosion and the only erosion. Thank you."

Supervisor Janoski, "Can I ask you a personal question? Are you living out here full time?"

Walter McQuade, "No. I vote here. I reside here. I pay taxes here."

Supervisor Janoski, "I had a reason for asking you that because it occurred to me that you are retired. You were in a Planning Commission, I recall from your letter."

Walter McQuade, "I was appointed to the New York City Planning Commission in '67."

Supervisor Janoski, "My purpose for asking you that question was to see whether you might be available to play a role in some of the agencies that we have."

Walter McQuade, "If I could help, I would be glad to help."

Supervisor Janoski, "Thank you. Our ability to enforce that will be improved after tonight. Because one of the things we did was to purchase a four wheel drive vehicle for the Police Department."

Walter McQuade, "They've had a four wheel. I think a couple of years ago it was said, in the paper anyway, that they were going to patrol that beach once every day. Now as I say, I'm out there all the time. I have not seen that police vehicle on the beach for three years. Any other questions? Thank you."

Supervisor Janoski, "Is there any other comment? And please remember these are not formal comments on what is being proposed. I just thought you might want the opportunity to speak. Mr. Danowski."

Peter Danowski, Attorney, "With an informal comment. I looked at the legislation. What prompted by viewing it was considering some subdivisions that have already been approved by the Planning Board which have had C.A.C. comment, been carefully

reviewed in part by the County Commission and our Planning Board and have had typical building envelopes displayed to the Planning Board. And I'm wondering whether your legislation when and if you adopt it, will grandfather any plans that have already been screened and approved and carefully considered by the Conservation Advisory Council? I care about that because clients will have these subdivision plans filed and will be marketing lots and make certain representations with regard to them. They may find that they can not build. That concerns me. If we're going to legislate, I wish this Board would consider and I know it's wishful thinking, but if we're ever to legislate and control our own destiny in this town, we should suggest or do it in a manner where the New York State D.E.C. is relieved of their chores and let us control our destiny by our own legislation and only pass this conditioned upon the D.E.C. withdrawing their jurisdiction. I know that we already know that there is a 100 foot distance from the bluff line where we're setting back purposely anyway to avoid the D.E.C. jurisdiction that currently applies. You've already got a state law that says we've got to stay away from the bluff and now we're adding to it with more red tape. It wouldn't be as bad if this was in lieu of the state, replacing the state and letting Mr. Bartunek and the C.A.C. and the town representatives control our destiny. But this is merely added some more red tape and we're still going to have to deal with the D.E.C. To that extent, I'd also object to the legislation. Thank you."

Supervisor Janoski, "Any other comment? That being the case.... Well, it's not a hearing but we'll close it anyhow because it is scheduled. The period is closed. And without objection, this meeting is adjourned."

Supervisor Janoski reconvened the meeting at 8:55 P.M. to hear residents in South Jamesport.

Sam Sedove, S. Jamesport, "I'm a resident in South Jamesport. As most of the people that's here, that's probably why they're here. My viewpoint might not be equal to most of the others. I'll make my comment. I'm not around a lot where I live but I have observed that there is a marina. I live next to it. The Great Peconic Marina. They have had some vandalism problems or apparent vandalism problems and constructed a fence in order to provide a measure of security to the boats and property that they have. I personally may not necessarily like the fence around the property but I can understand a person protecting their property if they have problems. However, there was an additional construction of a fence across property that I have not had a chance to find out for sure. I don't doubt that it is her property. It's across a beach front area. It's a wing of fence that extends from the end of a building, a rusted building on the beach out across the beach and out to the line of what is presently the summer time high tides. Actually a little bit less than the high tides. The end fence has been knocked down by a couple of wave actions a few times. On top of that fence was put

barbed wire. That barbed wire really.... I'm not quite sure what its purpose on a wing of fence that's not enclosing anything. I think it is a risk for the owners themselves because regardless of what I deal with in lawsuits. If somebody falls against it, whether they should be there or not, there probably would be a lawsuit. But regardless of that, most of the residents that live in the area have utilized this beach as a bathing beach for (Some of them who have been here for a long time can comment.) 40 or 50 years, 30 years, whatever."

Unidentified Man from Audience, "Sixty-nine years."

Sam Sedove, "Sixty-nine years, okay. And the residents themselves are not making any abuse. I don't think there are any residents themselves breaking into the property and attempting to do any damage. However, regardless of which I think most of the residents find that wing of fence the most objectionable thing that's been constructed and would like to see if an amendable way can be done instead of continuing what has been going on where a lot of foul language is extended between people on the beach and older kids, older people and children are threatened with arrests because they're "trespassing". I have spoken to Chuck Hamilton at the D.E.C. They're reviewing it for me for definition of mean high tide. He has already informed me that the fence is constructed beyond the D.E.C.'s definition of high tide and they are going to get a ruling for me for that. I work as a state law enforcement agent and that's one of the requests that I've made. It would not solve, I don't think the residents' problems because it would only mean three or four sections of fence (from what I understand) that are beyond the point where they feel mean high tide would be. And I would like to suggest to Helen and the marina and the residents that maybe all of this could be ended if the fence can be taken back from extended out across the beach. And the residents themselves try and maybe police the area and not throw their trash down there as is sometimes done. And at the same time, try and stop the war that seems to be brewing in the neighborhood because of a fence that's being put across the beach. In other countries, my family is Australian, it is illegal to put a fence across any beach. I personally haven't seen any fence across any beach on the North Fork anywhere but there probably is. I'm not saying there isn't but I haven't seen one. If there is, it's not a very common feature to across the beach and into the water line with a fence. That's the objection. Somebody else can speak. And if you haven't seen it, I have pictures. By the way, the fence, I understand the town law is six foot for fence. Does that include the barbed wire portion of the fence. It does not. It includes the chain metal portion of the fence. Well, many sections of this fence which I have (as a scientist, I have meter rulers, they're not in feet.) a couple of photographs I can provide the town with of this fence where that exceeds the height requirement."

Councilman Boschetti, You mentioned the fence going down to the beach. Is this fence on private property presently?"

Sam Sedove, "I believe the fence is on private property. There might be some question as to whether it in fact is right on the private property or maybe goes a few inches over on the other side of it. I'm not sure. I understand and probably Helen, I'm sure she's got a large package with her, has got some renderings that show what the property lines are. The only thing I would question, I reviewed my property when I purchased my house. All of that area down there use to be owned by, I believe it was, the Presbyterian Church."

Unidentified Man from audience, "No. It was the Methodist Church then they moved out to Shelter Island and sold the property."

Sam Sedove, "My property states on it that I have beach rights. Now, unfortunately it doesn't tell me where those beach rights are. And at this point, the document that I have was made in 1947 and I don't know that I could find out where it is but this fence is probably if not on private property intended to be on private property. And I'm not saying that I'm objecting to somebody a fence across private property. I think the objection here is A; the way in which it's been done. The motivation. I know I personally, my most offensive thing here is that I was lied to. I did try to speak to Helen reasonably and Tony when he was alive. And at that time try and say; maybe in essence my statement is you can probably get a better response with honey than you can with mustard. And in this instance, I think maybe it could have been handled a little differently and the fence could have been set off. It's not across the other portion of their property that is on the other end. There is no fence that goes across that beach down to the water down at that end. The statement was to try and stop cars from driving across there. I personally have seen lots of cars go right past that fence. It's not going to stop anybody particularly at a low tide. It's not going to stop anybody from driving down the beach if in fact that's the reasons."

Councilman Boschetti, "You'll have forgive me. I went to a convention just as a lot of this was unfolding a few weeks back. So I'm really not aware of a lot of the facts."

Sam Sedove, "It's unfolded over a long period of time. But I think more the objection here is just the fact that there are a lot of young children, older people who go down to that beach in that area. They go down, sit on the beach, the go swimming in the water. And this fence now A; can be a hazard. The section of beach that is owned is a narrow strip. I'd ask Helen but she probably wouldn't answer me. My guesstimate is 50 in width and then immediately on the other side of the 50 feet are other people's homes. Many of whom are sitting right here now. And this restricts access all the way across."

Councilman Boschetti, "Assuming it is on private property and I don't mean to monopolize your time... Assuming it is on private property, what is it you're asking this woman to do?"

Sam Sedove, "What I'm asking is A; is it legal to put a fence across the beach that way? B; if there is something this Town Board can do to possibly... I'm being honest in that I think you have a situation here that's going to.... You obviously have a lot of people with a lot of concern. I think you have a situation that's going to blow up a little out of hand. Possibly some older people, I understand there are some older women down there today that were threatened with arrest. I think it would be wonderful for the Town of Riverhead to arrest someone 79 years old for sitting on a beach. I think that would make great front page news. I think the whole situation can be..."

Councilman Lombardi, "Threatened by whom?"

Sam Sedove, "I wasn't there and I have to have someone speak. I have been down there and had comments made to me. As a scientist and biologist, I know where the mean high water line is. I've made sure I've stayed below it. The police came down at Helen's request that people were trespassing on private property. Again, the question I have, I wasn't there to see where the people where. I'm not sure where they were in relation to the where the mean high tide line is. The fence exceeds the mean high tide line as I have already been told. How much I don't know. It may only be eight feet. It might be, I was told, as much as three sections which could be 16 feet or whatever that would be."

(Discussion erupted in the audience with statements directed at the Town Board and discussion was inaudible).

Supervisor Janoski, "Excuse me for a moment. If someone were sitting on your front lawn, would that...."

Unidentified Woman from Audience, "But it's in front of an old boat house. No one lives there."

Supervisor Janoski, "The question was, is it private?"

Rose Sanders, S. Jamesport, "I happen to be on the beach today. When you made the comment true or not true, what exactly was it that you were referring to because.... Was it true that the town police were there? Yes it was true."

Supervisor Janoski, "Well, I wanted to know who threatened the arrest. Whether it was in fact an official of the town or someone who owns the property."

Rose Sanders, "It was an officer who walked down toward the beach and approached the people who were sitting there at that time and told them that if they did not move, that he would have to take action."

Supervisor Janoski, "Based on a complaint from the owner of the property."

Rose Sanders, "Absolutely. And he pointed to what he referred to as mean high tide. As a lay person, not everyone who would walk along the beach, if you are not in the business, will know mean high tide from low high tide. So you just come down there and you try not to sit in front of a person's house or in front of a person's obvious piece of property. But when you're sitting at a beach that you've been sitting on (I myself) for ten years. There's been people that have been there for a lot more. We've been sitting there for over, probably together, over 100 years and suddenly you can't sit there any longer and you're going to be arrested if you do. There's no fine line. There's no demarcation. If you just come and say there's a seaweed, who is to say. I just wanted to come and say to Sam that yes it is true. Someone was there and there was a threat made that if they did not move they would be physically (I don't know) pulled off the beach. I have no idea. But I'll be back. Thank you."

Supervisor Janoski, "This situation has gone on more than this year. This situation has gone on for a number of years. The complaint to the town about the use of the beach by people leaving behind all sorts of debris. What I am told....."

Supervisor Janoski was interrupted by opposing remarks from the audience.

Supervisor Janoski, "I'm not saying it's true. Why are you so frustrated?"

Sam Sedove, "Can I make a suggestion here since I'm still....."

Supervisor Janoski, "I didn't say people were leaving debris. I said there were complaints to the town. From whom? From the owner of the property."

Sam Sedove, "Well, the owner of the property has also dumped debris on my yard that I have had to remove. But regardless of that, what I'm suggesting here is that what I think is a request from at least myself and possibly the rest of the residents is that the Town Board maybe act in a way that maybe if the owners of the property can be reasonable and we all can sit down and be reasonable. Nothing is going to be served by everybody yelling back and forth and having people arrested or having people threatened or foul language being yelled out on the beach. My suggestion is to sit down, see if some kind of reasonable settlement can be worked out to where the local residents can make use of something that's been used for many years without damaging property, without effecting or decreasing or increasing risk to Helen's property there. As well as that Helen can have a means to identify that this is her property and maybe this is something nice that is being down for the town and

local residents are able to use the beach but you use it with respect and clean it up. If there's a trash problem, local residents I'm sure, I'd have to check but I wouldn't be surprised if the South Jamesport Civic Association would put together some money. I'd be personally willing to put down trash cans, purchase trash cans down there and I'd be willing to empty them myself if that's a problem. But again, the point being; let's see if we can get the Town Board and everybody to sit down and straighten it out."

Supervisor Janoski, "What I'm saying is that the town has been somewhat in the middle of this dispute."

Sam Sedove, "The town will probably always be in the middle of disputes."

Supervisor Janoski, "As valid your concerns are and your observations, the other complaints....."

Sam Sedove, "But you see, what I'm trying to say is.... I'm trying not to say that necessarily my complaints are valid or the local residents are any more valid than Helen's. As a matter of fact, I stated at the beginning of this; whether I like having that fence right next to my property or not, I can understand her reasons for doing it if in fact that problem exists. I'm not saying that's the problem. I think more the problem is A; the way in which it was done. And this particular section of fence, that in terms of providing security, I defy you to show my how that section of fence provides security to access of that property unless you extend the fence right down into the surf."

Councilman Boschetti, "You mention twice now about the way it was done. What does that mean?"

Sam Sedove, "To me, the way it was done at least to me, I made an attempt to speak to Helen at one time and try and say that maybe this section of fence (first off) if we get a good winter storm. I did say to her and I have seen it when they first put it up. They put in a very large pipe there now. I would be willing to be \$1,000, that come a winter storm with an east wind, that pipe will come right down too. The nature of way sand erodes with weight on top of it. It's just going to erode away. That fence will fall down. It's an expensive proposition and it was constructed almost (at least apparently and this is my perception after conversations directly with Helen).... And Helen, I hope that she would be honest enough to admit that I've come up to here and tried to speak to her a couple of times. I had thought and was told that there was another wing of that fence down by her property. And the purpose was to stop people from getting access that they think they drove in to break into the property. Well, there is no such wing down there and it doesn't extend out onto the beach. And I think the way in which putting the wing at that point in an area where you've got a lot of local residents, older people, kids myself, I'm not down there

too much unfortunately but it could have been done more by going maybe.... It was known to be a concern to begin with. It could have been done possibly by saying to the local residents listen; this is a sort point but this is why I'm doing this portion of it. Maybe we can talk about this section of it. And that's what I'm suggesting the Town Board's position may be here."

Supervisor Janoski, "You ask us to play an intermediate mediator type of role."

Sam Sedove, "If you want to term it that, yes."

Supervisor Janoski, "Well, basically the role that I perceive you asking for because Helen....."

Sam Sedove, "I don't want to only speak for everybody because maybe I'm not speaking for everyone."

Supervisor Janoski, "I had a couple of calls from you folks. When that fence first started going up, I had some pictures which I showed the Town Board. And at that time, had predicted that there was an animosity growing in the air. I do know that the property was surveyed before the installation of the fence....."

Unidentified Man, "We're having trouble hearing you."

Supervisor Janoski, "I'm sorry. I am aware that the property was surveyed before the installation of the fence. So it is a presumption that it is where it's supposed to be. The question about extended down to the beach, I talked to someone very recently about that on the phone. That's a question. Whether it's down too far beyond the high tide mark. But I would (believe me) like nothing better to find a way to resolve this problem because it has taken on a life of its own."

Sam Sedove, "And what I'm suggesting is there are some press here tonight. I know them well. And it may take on more of a life and it's certainly not going to make the local residents any calmer, any more reasonable. I'm not suggesting we're unreasonable. It's certainly not going to make Helen any more calmer or more reasonable. And I'm not suggesting she's unreasonable but the whole thing is certainly (I think you're right) going to keep snow balling until a few more people get arrested. Maybe there is a few lawsuits. Maybe the town gets sued. Maybe Helen gets sued. Maybe Helen sues somebody else. And I'm just not sure that may be the best resolution."

Supervisor Janoski, "No that's not in the best interest of anybody."

Sam Sedove, "That's my two cents."

Patricia Moore, "I would like to interject something. I have received numerous calls from the property owners here. I personally went down there with one of the Building Inspectors. I have asked all the Building Inspectors to take a look at it, the Highway Superintendent for purposes of the width of the road. We have involved just about every agency I can think of to go look at this fence. We have cited the property with having several violations. One is having a sign without a permit. Another is erecting the fence which is above the six foot maximum height limitation. We have advised her to come in and make application immediately. We were hoping that by this notice that we would get her in to discuss it with us and we can possibly resolve it and act as intermediaries without even your requesting that. That was the intention. When we send out a notice of violation, our primary goal is to get cooperation from the owner and to make everything there legal. And as far as we're concerned, we have not heard from her yet as far as I know from my office. But I anticipate that she will respond if she's here today. I hope I can met you."

Several people from the audience, "Another sign went up today."

Patricia Moore, "Well, then you'll receive another notice of violation."

Sam Sedove, "See this is my point and it's a point I'm making to you Helen. And that is, and I'm making it to the residents too and I'm one of those residents. I live five houses away. My point is that we can go back and forth. I'm sure there's lots of violations on any property you can find in the town. I'm sure you can come onto my property and probably find five or six violations. I'm sure we can all get Helen listed for five or six violations. The point that I'm making here Helen is to go back and forth between you and the residents and the town with violations and letters and everybody having to spend a lot of time and money on it when I'm not sure that's best served. And I'm asking, I guess what I'm doing and I'm willing to do it even though I'm never around, I'll be willing to sit down with your Helen and town people and everybody in the residences and I think all the residents should make a comment because I'm not comfortable speaking on this for myself."

Supervisor Janoski, "Well, we have gentleman who is standing and ready for when you live."

William Gilmore, "I have been a residents of the area for 23 years and I'm 26 years. I moved there when I was three. I live right next door to the property in question and the fence. The fence is definitely an eyesore, the part that extends down. There's no question about that. But the lady has been forced beyond reason to do what she has done. I don't think it's exactly the best solution like Sam said maybe talking. But a lot of the residents, maybe not the ones here, but we have a lot of

problems with garbage being tossed in the yard. I daily police my beach and my property and pick up large quantities of garbage. Our beach has been set on fire twice on the beach grass. We've had the dead end sign about a month ago, tossed in our back yard. We've had our fence that runs our property, a wooden slat fence, people get stuck in the sand and rip down the slats. They rip down the fence to get out. They go in the yard and take whatever they want. We've had people urinating, defecating on our property. These are just some things. We don't have a barbed wire fence and maybe that's why it happens to us."

Interrupting remarks were made in the audience.

Supervisor Janoski, "Wait a minute. We have this meeting and now we're going to play by the rules. You had about ten or fifteen minutes and now it's this fellow's turn. If you want to be recognized again, you got it."

William Gilmore, "My only comment is; I would like to see things work out because the fence is an eyesore. We had to put something down there because of fear that people being chased off one property would move right to the property next door. That was only our concern and why we put up the fence. Alls it is a few boards. The fence property here; you mentioned permits for the fences. We have merely followed our fence line that has been there when we brought the property. There have been numerous fences there that have come down over the time just because they've been wood and we've replaced what we had."

Supervisor Janoski, "Sir, let me make you understand this. You wanted a Town Board meeting. This is a Town Board meeting and you have to be recognized to speak and you have to come up to the microphone and you've had your chance. One of the rules that we play here is that anybody that wants to speak, speaks. And then if you want to speak again, we'll stay here all night."

Sam Sedove, "I requested a question an answer period."

Supervisor Janoski, "Well, that's a nice suggestion but we're not going to do that."

Sam Sedove, "Well, I think we should. That's what we're interested in."

William Gilmore, "I'd be more than willing, like Sam said, help with any committee."

Supervisor Janoski, "The format that you have here now and I suggested a work session, this is a Town Board meeting. Your job is to talk to us and tell us what is on your mind. Not to talk to people in the audience because that only starts a dispute. I assume most people are on the same side here this evening but tell us what's on your mind. I would like to resolve it. I'm sure the members of the Board would like to resolve it."

What role we can play is something we will have to explore because our job is an enforcement job. If some code has been violated, a notice will go out and we will do an enforcement. Some of this is a neighborhood dispute which has to be worked out between the neighbors. So why don't you just continue what you were saying."

William Gilmore, "That's all I wanted to say. It's not as pretty a picture as they make it out to be about the residents. There are problems and it just needs to be worked out and that's it. It's a double edged sword. It doesn't just go one way."

Ken Blair, S. Jamesport, "I'd like to just ask the Town Attorney, is the fence in the site plan?"

Patricia Moore, "No it is not."

Ken Blair, "It's not. So she was cited for.... So already the fence is illegal then?"

Patricia Moore, "Yes."

Ken Blair, "Now with the size of the signs, the signs, were they in the site plan?"

Patricia Moore, "That's a separate ordinance that you come in for a sign permit and it was not obtained."

Ken Blair, "And under the sign permit which is 108-56, that states that the sign has to have a permit number on the bottom. Is that correct? I'm reading it and I know what I've got here."

Patricia Moore, "We've already said it's an illegal sign and we have cited her for having that sign."

Ken Blair, "With regards to the lighting; that's in your resolution here #181 and that's item number 4. It says no lighting shall be installed or adjusted in such a way that it causes direct glare on the neighbor's properties or adjoining highways. Well, it's right next door to me and the light is on all night. I think the light should be on all night. I'm going to go against myself. I'm going to be right and I'm going to be wrong. It should be on all night just to protect her from people who do rob boats or what they do with boats, I don't know. But then again, if you're going to start picking, I have a list of things we can pick on. If she wants to be that way, I also have a picture here that I understand at one time there was a drain on the end of Second Street that continued on into the marina. And as you can see, it was a rainy day and the rain is still falling down by the indication of the puddles. It's a rainy day. It was during the day. The lights are still on. Those lights, were they properly installed by a licensed electrician because I wouldn't want to go walk through that water. As you can see, the water drainage comes down from the street and comes down from the

marina as well. By her stopping or not allowing the drain that was there or still there to drain into the marina, created a problem. I think somebody else has a picture here with ducks floating in it. This is how deep it gets. It gets about 18 inches and it does come into my garage and just floods out the whole garage. It actually raised the floor in the winter time by freezing and just popping it up. On your resolution it states that if the fence does remain, section 181; it says that a buffer of ten feet should be on the fence. In other words, there should be shrubs, evergreen shrubs which the Board approves of, in front of this six foot fence which has now become a seven foot fence. At certain parts it's also an eight foot fence because there's eighteen inches where it's off the ground which the Town Attorney had seen. Even to go back to the other thing; if the fence is illegal, everything that I just said is washed out because the fence shouldn't be there in the first place because it's not in the site plan. The lighting was not in the site plan. The drainage which I had mentioned and the storage areas. When the Town Attorney came by and should have looked at the storage bins that are down on the beach area there, they are in such dilapidated shape that I don't know when the inspector was there to reinspect them to see if they are safe. Now, I know Mrs. Dries's daughter had gone down there today. For her own safety, those bins are so old, one of them is relatively new. I will say that. The other one is so old. I don't know if she goes in there but that should be examined. That is dangerous. It makes a dangerous situation."

Supervisor Janoski, "Can I ask you a question? Are you interested in resolving this problem?"

Ken Blair, "Yes. All this started because it shouldn't have been done in the first place. By going through, now you can go through a list of things which we're on here which were not followed. This obtained from your office here. That's your site plan. This is resolution 181 for site plan approval. Had all this been conformed with, there would be no problem today. The fence with this barbed wire on it going down to the beach, I myself saw a young boy climbing it. He couldn't have been more than five years old. That kids gets up on that barbed wire, he's finished. I've seen it happen. I was involved in a situation like that. The barbed wire is terrible. This was also tried similar like this that goes on in concentration camps. That's exactly what it looks like. It's in my backyard. And if they have to have an eight foot thing, she has to take the fence down and move it back eight feet and put up a buffer. That's all I have to say."

Joan Thomas, S. Jamesport, "I know that there are a lot of things here that will take time to be ironed out but I really think there's an immediate problem in getting that barbed wire down off that piece of fence that extends on to the beach. It protects nothing and some child will get hurt on that barbed wire. And I think, I don't know, aren't there laws about what

you can put barbed wire on top of? You can put barbed wire anywhere?"

Patricia Moore, "Not in our town code."

Joan Thomas, "It's not in the town code. That might be something to be considered. I really do think that that one.... Children will climb on it. It's an attraction for the children. It's a fence going nowhere. They wouldn't be doing anybody any harm but they will harm themselves with that barbed wire. While we'll discussing and ironing out all the other problems, I would like to see that removed. Thank you."

Rose Sanders, "A lot of people here, a lot of mixed emotions, angry and you want to protect what's yours and everything like that and I know we can all take that into consideration. What belongs to Helen is Helen's. Nobody wants to take it away from her. And Helen has every right to do whatever she wants to do on her property. The point is two things. As long as whatever she does on her property is within the town code. And we all know as we sit here tonight, that there are many violations that are going on on that particular piece of property. That should be addressed and she should have to meet town code as well as all the other residents of the Town of Riverhead. That's my one overall point. The second point is again, the major objection to the part of the fence that juts out onto the beach for no particular purpose. Somebody is going to get hurt. Again, I think it goes down too far. Protect what's yours, absolutely. The objection with the garbage, I myself know that with my three children and other people's children down there, we bring our own garbage bags. If we find glass, we pick it up and we put it in the bag. It wasn't our glass. We pick up our cans. We pick up our garbage. We like to sit on a clean beach just like everybody likes to look at a clean beach. So we are very careful and I can attest to that because I know. I try to get there as much as I possible can. So it's not just me against you or my neighbor or one neighbor against another property owner in the neighborhood. Just conform. Protect what's yours, yes absolutely. Everybody would like to do that but it should also be within the town code. No violation should be acceptable because she is a property owner, provides business. I don't know what goes on there but she should have to conform with the town code. And again, if we can do something about the fence that does jut down into the beach, I think that would be much appreciated by all the residents of the community. Thank you."

Supervisor Janoski, "I guess it's your turn again."

Sam Sedove, "I'm going to make the one resident who misunderstood me because I shouldn't have spoken. You're right. I shouldn't have spoken when I did because you misunderstood what I said. I was not talking about his fence needing a permit or a violation. What I was talking about is being down there and

frequently coming home (in my work) at sometimes 2 o'clock in the morning. I see many people parked down there. None of them have permits. It's a very small community down there. It's very difficult to live in that area and not have a vehicle known for the most part. And I'm willing to bank on the fact that most of the trash, glass you see on the beach.... I know I have a two year old child. The last thing I'm going to do is throw a bottle down on the beach. I think that you find that most of the debris and trash that he's picking up and I pick up and other residents pick up, are not usually from the residents. I'm not saying they aren't at all. But I'm saying under most circumstances, that beach has a lot of people. I was down there three days ago. I had two guys come down to off load their.... They were off loading something down to the beach and they were not residents. And I said something to them and their answer.... They were trying to get a boat out into the water. They decided to go down to the beach that way for that purpose. I said are you a resident. Well, I'm just going to be here for a minute. I'm just moving this. There's an example of what I'm talking about is that my concern was not his fence needing a permit. My concern was that the permit I'm talking about is a little sticker that we all have to get that says Town of Riverhead on it and there's a sign. It's a little covered over by bushes now but it says that you need a permit from May 15th to September something or other to park in that area. That's it."

Councilman Pike, "I just have a couple of comments here because one of the things that is not as clear cut as it might be is how far somebody can impede people from going back forth on a piece of water front property. It is not just the mean high water mark that delineates the end of somebody's property. There are two things that could allow the public to go back and forth farther up on to what most people consider to be their private property and it works like this. One; in the State of New York you have something called a prescriptive easement, adverse possession the way most people know it. So that people openly and notoriously have gone back and forth on the beach and have used it for beach purposes and put their blankets there and bathed and or they have had fishing operations and using it for the drying nets which is a very traditional use of this area. As long as that doesn't break for any 10 or 15 year period now in the State of New York, they continue to do it no matter what that person's deed says. There is also the concept of riparian rights which if you look at, if any of you have bought a piece of property that is water front since tidal insurance has been around, you will find that your tidal insurance specifically accepts, (In other words, doesn't protect you against.) the riparian rights of other people to travel back and forth on your property. If you look at your water front deed or tidal insurance, you'll see that it doesn't matter what your deed says. So that before you feel limited by a tide mark which is obviously very tough to track down, you should also be looking at the historical use of the property and the concept of riparian rights here before we fix where that fence should go. And I just wanted

the people to be aware of those constraints to the position of pulling it back and allowing more public access."

Supervisor Janoski, "Howie."

Howard Young, Riverhead, "I'm a land surveyor. And what I just heard made me get up and I think most of it was untrue. There hasn't been a raparian right case won in the State of New York in 50 years. And just because tidal companies won't insure something, doesn't mean you don't own it, Mr. Pike and you know that."

Councilman Pike, "I would suggest that not try to fight the raparian rights of the Wickham family on Fisher's Island."

Gordon Leuthwaite, "I'm the guy that's been coming here for 69 years. I first came when I was three years old and I'm 72. Now, that didn't give me any special privileges but I think I might express a feeling. We have travelled through a number of states and many of them have access to the beach as a right to the community. They provide a parking area, walkway over the dunes. It's public and nobody can keep you from using that. I don't think I have seen that in New York State. Vermont has it on every lake. Every lake has public access to it. Now, we do have access in that there is a road down to the beach. There's also one at the point. And people have been using this for many many years. It is an asset of the community which means it's an asset of the Town of Riverhead. It can be destroyed if selfish people try to make it their own and the exclusion of other people. A good community has people who work together. Businesses get good well because they deal with people fairly. Now, if people start grabbing and private property keep off, we see these signs. It doesn't enhance it for the public. It doesn't make it a better community. I'd rather see a welcome mat out or something. I'd love to have people sit on the beach in front of my place. I can't understand why this is a problem. Why was a policeman sent down there? To keep elderly people from sitting on the beach? What harm were they doing? I don't understand that attitude. The fact that we have certain rights on private property doesn't mean we have to be bullish about it to the exclusion and the damage of the whole community and I think that's what's happened here."

Ken Blair, "Does the Town Attorney have an information on the width of the street? On the width of the street on West Street, do you know how wide that has to be?"

Supervisor Janoski, "The town map shows it as being 40 feet."

Patricia Moore, "Are you talking about Washington Lane?"

Ken Blair, "No. West Street. It's 40 feet in width."

Supervisor Janoski, "Once again, listen to what I said. The map shows it as being 40 feet. I didn't say it was 40 feet. I said the map shows it as being 40 feet."

Patricia Moore, "What may be blacktopped is less. But if our map shows 40 feet...."

Ken Blair, "So will the town reclaim the 40 feet because it's not 40 feet? Will the town make it 40 feet?"

Patricia Moore, "I've checked with the Highway Superintendent and we're going to see if we can't locate some monuments and try to clear some of that area. Some cinder blocks were a concern to the neighbors because the property owner on the other side of the street was causing some trouble, some hazard to cars."

Ken Blair, "Yes, your car got stuck."

Patricia Moore, "No not my car. My driver wanted to turn around."

Betty Brown, Peconic Bay Boulevard, "I'm not involved with this problem at all but I just wanted to share my frustration with you and perhaps you might be able to do something more about it. I think the problem lies in that if there is a problem and the people or whoever it is, cited for an illegal act, it never seems to be resolved. Either they don't respond or I don't know if it takes three letters from the town or what kind of a format you have. But people sit by patiently waiting for the town to exercise their rights and they're only so patient. I guess in this case someone spoke something about children becoming hurt. This is a problem. Maybe you have to look back and send one letter. Say if you don't respond in ten days, the town will at your expense, remove that fence. I don't wish to get on one side of this problem."

Patricia Moore, "What we are doing just to clarify things, when we send out a notice of violation, there is a certain period of time, reasonable time that we have to give the applicant to come in and make contact with the town. Or the property owner to make contact with the town. If that person does not respond within a reasonable time, then we send out a violation with a summons and the summons advises the person that they have to appear in court on a certain date. If the person fails to appear in court, it's really between the town and the judge at that point of how dangerous the condition is or how serious the violation is. We can issue a warrant for the arrest of that individual and get that person in. We have to get them in in order to have a trial. We can not, on a criminal violation, make that person criminally responsible without having a trial. So that is the process we take and we do try to be fair both to the people complaining as well as to the person who received the violation."

Supervisor Janoski, "What it is Betty, is due process."

Betty Brown, "I agree with due process."

Supervisor Janoski, "The town government can not say; we gave them ten days. We're going to go in there and take down the fence. It must be a judge. And there are two sets of rights that are being defended here. These individuals who feels it is their right to go to the beach to enjoy that. And the other side of the people are defending their rights that I own this property. Somehow we're going to try to resolve it. But we can't act as police and go in there and rip down the fence."

Betty Brown, "I was talking about the legalities that the Town Attorney mentioned that are absolutely illegal."

Supervisor Janoski, "Even that has to be determined by a judge. Whether it's illegal or not. And if it's illegal, the judge will then order the individual to take it down."

Patricia Moore, "Actually the individual will be fined per day rather than the court may not have the right in justice court, order it to be taken down but they certainly have the right to fine them per day and it can lead to a substantial fine."

Betty Brown, "I know that I spoke to the Code Enforcement Officer and he mentioned that with these signs that are up, these for sale signs for real estate offices, we see 10 and 15 on a single property. And he was saying that by the time people get the letters and take the signs down and go through the entire process, the next week they're back up again. It seems to me that if we could beef it up a little bit, the violations would not be as prominent as they are. Thank you."

Supervisor Janoski, "George, do you want to add an explanation to all this that took place?"

George Schmelzer, Calverton, "First I want to say what I missed before when you asked me if I wanted a meeting with Ken LaValle. Personally, I suggest that the Town Board organize a meeting. Not a Town Board meeting, an open public meeting where all of the Town Board is there and Ken LaValle is there and Joe Sawicki so the people can ask them questions and get this thing...."

Supervisor Janoski, "I will make that request and see what kind of response I get. I'd like to hear your feeling on this particular issue."

George Schmelzer, "I'm glad I don't live down there. That's the raparian rights. The raparian rights are for the owners of the shoreline of a body of water. Not for outsiders. And when it comes to tidal insurance, tidal insurance will insure

the bottom of the water that is not a tributary to any outgoing stream. Like if you have a piece of land with a pond in the middle, they'll insure that. But if you got a little outlet a foot wide going to a bigger stream out to the ocean, the answer is no because there's too many problems that come up with the rights. Right here is goes back to English law. Some of the towns have trustee grants. Like in Calverton south of the manor line. Trustees of Southold Town had no rights but north and east of the manor line which the town got a deed in 1965 and the town has rights. They own Hallock Pond and Bob didn't know about that. So that's the way it goes. And Southampton has its own rights. Now if you go upstate where they go back to Dutch law, that's a little different again. There's less private control over waters because in Holland it was so important to have the waterways. That's the way it is. Thank you."

Supervisor Janoski, "George is really a smart man and he does know an awful lot about stuff. He plays a role here and he tries to throw a little humor into some of the things that he does but he happens to know a great deal and that's why I was interested in what it is that he thought about this."

Howard Young, "Explain raparian rights George."

George Schmelzer, "Raparian rights, as little as I know about it is; the rights of the owners along that shoreline of a stream. One can not block the other from using the water. And that doesn't mean that strangers can come from miles away that doesn't own anything on the water and he can tell everybody else what to do. That's a little different. It doesn't work that way. What do you think Howie?"

Howard Young, "That's right George."

George Schmelzer, "Thank you Howie."

Supervisor Janoski, "is there any other comment? Yes ma'am. Thank you George."

Gerry Hegner, S. Jamesport, "Now I've been... I'm one of those that's been down there a good 25 years swimming and we never had anything like this. The people that do come down there are very nice people. The kids are nice. We don't do nothing but go down there and swim. We're not rowdy or anything and I don't know why we had to have somebody come down and scream and yell and carry on. If she'd come down and be a little more sociable, she'd probably get along much better with us. But she just comes and yells and screams and going to call the cops. And all we do down there is swim and we don't bother nobody. And we are down, as far as we can tell, down as close to the high water mark and I think we deserve to be able to swim down there. That's all."

Supervisor Janoski, "Any other observation? Ok Helen, after this meeting, would you make yourself known to the Town Attorney. She would like to know you. It is okay if we adjourn the meeting? Therefore, this meeting is adjourned."

There being no further business on motion or vote, this meeting adjourned at 9:50 p.m.

IJP:nm



Irene J. Pendzick
Town Clerk